

2           Herbert A. Viergutz, Esq.  
3           Barokas Martin & Tomlinson  
4           1029 West Third, Suite 280  
Anchorage, AK 99501  
Phone: (907) 276-8010  
Facsimile: (907) 276-5334

5 Attorneys for United States Guaranty Company

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ALASKA AT ANCHORAGE**

8 UNITED STATES OF AMERICA for the use of NORTH  
9 STAR TERMINAL & STEVEDORE COMPANY, d/b/a  
0 NORTHERN STEVEDORING & HANDLING, and NORTH  
STAR TERMINAL & STEVEDORE COMPANY, d/b/a  
NORTHERN STEVEDORING & HANDLING, on its own  
behalf.

11 Plaintiffs,

12

3 UNITED STATES OF AMERICA for the use of SHORESIDE  
4 PETROLEUM, INC., d/b/a MARATHON FUEL SERVICE,  
5 and SHORESIDE PETROLEUM, INC., d/b/a  
MARATHON FUEL SERVICE, on its own behalf,

No. 3:98-cv-9 (HRH)

## 16 Intervening Plaintiffs.

7

18 METCO, INC.

19 || Intervening Plaintiff,

vs.

NUGGET CONSTRUCTION, INC.; SPENCER ROCK PRODUCTS, INC.; UNITED STATES FIDELITY AND GUARANTY COMPANY; and ROBERT A. LAPORE,

## 23 Defendants.

**AFFIDAVIT OF COUNSEL**

**BAROKAS MARTIN & TOMLINSON**  
1029 West Third, Suite 280  
Anchorage, Alaska 99501  
Phone: (907) 276-8010  
Fax: (907) 276-5334

STATE OF ALASKA }  
THIRD JUDICIAL DISTRICT }

**Herbert A. Viergutz, being first duly sworn upon oath, deposes and states as follows:**

1. I am counsel of record for Defendant, USF&G, in the above captioned matter.
2. The Court's Scheduling Order required that all Dispositive Motions be filed on or before April 30, 2006 [May 1, 2006 due to Sunday being the 30<sup>th</sup> of April].
3. Rather than simply filing a one page, one sentence "Joinder", North Star, 9 days tardily, filed a 9 page Joinder essentially arguing for Summary Judgment on its behalf.
4. The North Star Joinder is an untimely attempt to file a Summary Judgment Motion and should be stricken by this Court. USF&G respectfully requests the Court to strike North Star's Joinder. A proposed Order is lodged herewith.

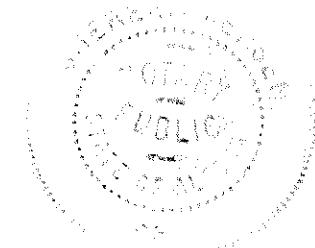
FURTHER YOUR AFFIANT SAYETH NAUGHT.

Dated this 11 day of May, 2006.

Herbert A. Viergutz

SUBSCRIBED AND SWORN TO before me this 11 day of May, 2006.

Sharon Jensen  
Notary Public in and for Alaska  
My Commission Expires: 11-17-06



**BAROKAS MARTIN & TOMLINSON**  
**1029 West Third, Suite 280**  
**Anchorage, Alaska 99501**  
**Phone: (907) 276-8010**  
**Fax: (907) 276-5334**

1  
2 **CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a copy of this document  
3 was served by electronic notification on this 11<sup>th</sup>  
day of May, 2006, to:

4 Michael W. Sewright, Esq.  
5 Burr, Pease & Kurtz  
810 N Street  
6 Anchorage, AK 99501

7 Paul Stockler, Esq.  
1309 West 16<sup>th</sup> Avenue  
8 Anchorage, AK 99501

9 Tom Krider, Esq.  
Traeger Machetanz, Esq  
10 Oles Morrison Rinker & Baker, LLP  
745 4th Avenue, Suite 502  
11 Anchorage, AK 99501-2136

12 Steven J. Shamburek, Esq.  
Law Office of Steven J. Shamburek  
13 425 G Street, Suite 630  
Anchorage, AK 99501-5872

14 s/ Herbert A. Viergutz

---

15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26 BAROKAS MARTIN & TOMLINSON  
27 1029 West Third, Suite 280  
28 Anchorage, Alaska 99501  
Phone: (907) 276-8010  
Fax: (907) 276-5334